IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4526 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GSRTC

Versus

UMRIGAR, C/O S.T. EMPLOYEE 3RD SPECIAL LAND ACQUISITION

Appearance:

1. Special Civil Application No. 4526 of 2000

MR KS JHAVERI for Petitioners No. 1-2

RULE SERVED BY DS for Respondent No. 1

MR GM JOSHI for Respondent No. 1

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 05/11/2001

ORAL JUDGEMENT

Rule. With the consent of parties, the matter is taken up for hearing today.

The respondent-workman had raised an industrial dispute being I.T.R. No.349/92 by which he had challenged the decision of the disciplinary authority whereby the respondent was reverted in service by five years in the lower grade by way of penalty order No.2/92.

The Industrial Tribunal, Rajkot, partly allowed the said Reference and modified the penalty imposed by the disciplinary authority and by exercising powers under Section 11-A, the Tribunal passed an order reverting the respondent in service by two years in the lower grade. It was argued by Mr.Jhaveri that the concerned workman had indulged himself in a serious misconduct as he utilised the car of the Corporation without permission for his personal use. He submitted that it was not a case in which the Tribunal should have exercised powers under Section 11-A of the I.D. Act. As against the aforesaid submission, it was argued by Mr.Joshi for the workman that the award of the Labour Court was passed as back as in January, 1998, and, therefore, this petition is filed after a gross delay of more than two years. He submitted that even otherwise the Labour Court has rightly exercised the powers under Section 11-A, and, therefore, the petition should not be entertained by this Court. It is required to be noted that considering the fact that award has been passed as far back as in 1998 and the challenge is made after more than two years as well as considering the reasoning adopted by the Industrial Tribunal in paragraph 7 of the award, it cannot be said that the order of the Tribunal is in any way contrary to law.

In my view, proper reasons have been assigned by the Tribunal in paragraph 7 of the award. However, Mr.Joshi has fairly submitted that he has no objection if penalty awarded by the Labour Court is substituted from two years to three years. In view of the aforesaid concession given by Mr.Joshi the order of the Tribunal is modified and the award of the Tribunal by which the concerned employee is reverted by two years in the lower grade is substituted as reverted for three years in the lower grade. Subject to the aforesaid modification, the rest of the award of the Tribunal stands confirmed. This Special Civil Application is accordingly partly allowed with no order as to costs. Interim-relief granted earlier shall stand vacated.

(P.B. MAJMUDAR, J.)

stanley-pbm